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10/538,156	06/09/2005	Newton Galileo Guillen	PU020493	1469

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EXAMINER	
DAZENSKI, MARC A	

ART UNIT	PAPER NUMBER
2621	

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Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary	Application No.	Applicant(s)	
	10/538,156	GUILLEN ET AL.	
	Examiner	Art Unit	
	MARC DAZENSKI	2621	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE *3* MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☒ Responsive to communication(s) filed on *14 November 2008*.

2a)☒ This action is **FINAL**. 2b)☐ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4)☒ Claim(s) *1-14* is/are pending in the application.

4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5)☐ Claim(s) _____ is/are allowed.

6)☒ Claim(s) *1-14* is/are rejected.

7)☐ Claim(s) _____ is/are objected to.

8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9)☐ The specification is objected to by the Examiner.

10)☒ The drawing(s) filed on *09 June 2005* is/are: a)☒ accepted or b)☐ objected to by the Examiner.

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12)☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a)☐ All b)☐ Some * c)☐ None of:

1.☐ Certified copies of the priority documents have been received.

2.☐ Certified copies of the priority documents have been received in Application No. _____.

3.☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1) ☒ Notice of References Cited (PTO-892)
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3) ☐ Information Disclosure Statement(s) (PTO/SB/08) Paper No(s)/Mail Date _____.
4) ☐ Interview Summary (PTO-413) Paper No(s)/Mail Date. _____ .
5) ☐ Notice of Informal Patent Application
6) ☐ Other: _____.

DETAILED ACTION

Response to Arguments

Applicant's arguments with respect to **claims 1-14** have been considered but are moot in view of the new ground(s) of rejection.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

> (a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

Claims 1-3, and 8-10 are rejected under 35 U.S.C. 103(a) as being unpatentable over Pachet (US PgPub 2002/0078029), hereinafter referred to as Pachet, in view of Looney et al (US PgPub 2005/0201254), hereinafter referred to as Looney.

Regarding **claim 1**, Pachet discloses an information sequence extraction and building apparatus e.g. for producing personalized music title sequences. In addition Pachet discloses an apparatus adapted to automatically extract and store files each corresponding to a music title and then to display a corresponding identifier, which reads on the claimed, “a method for displaying information using a digital audio player, comprising the steps of," as disclosed in paragraphs [0062], [0067], and [0069]-[0070]; the method comprising:

a category selection option, accessible by a corresponding user input (54), which allows the user to select a main musical type, upon this type of selection option being activated, the programme consists only of titles belonging to that selected type, which reads on the claimed, “reading a playlist selected by a user; enabling a display of one or more entries included in said playlist on a display device associated with said digital audio player,” as disclosed in paragraph [0114] and exhibited in figures 6 and 7 (specifically the “your programs" and “track listing” options in figure 7), as well as each programme is considered as a sequence of music titles and showing in a display page of the computer program adapted for a feedback response selected titles, which reads on the claimed, "each of said one or more entries corresponding to one of a single song and a plurality of songs and having a visual indicator that indicates whether a user selectable parameter associated with said entry is in one of a first state, a second state and a third state,” as disclosed at paragraphs [0093] and [0171] and exhibited in figure 7 (wherein "sequence of music titles" reads on "a plurality of songs" and "music title" reads on "single song"); and,

the program “Love songs 2” is darkened in respect to the other programs to show that it is selected, and the track “Like Someone in Love” is darkened to show it is selected in respect to the other tracks in the “track listing window,” which reads on the claimed, “said user selectable parameter is in said first state if said entry corresponds to said single song and said single song has been selected by the user; said user selectable parameter is in said first state if said entry corresponds to said plurality of songs and all of said plurality of songs have been selected by the user; said user

selectable parameter is in said second state if said entry corresponds to said single song and said sinqle song has not been selected by the user; said user selectable parameter is in said second state if said entry corresponds to said plurality of songs and none of said plurality of songs have been selected by the user;" as exhibited in figure 7 (wherein an item that is unshaded or is not darkened is in the "second state").

Pachet fails to disclose, however, said user selectable parameter is in said third state if said entry corresponds to said plurality of songs and at least one, but not all, of said plurality of songs has been selected by the user. The examiner maintains it was well known to include the missing limitations, as taught by Looney.

In a similar field of endeavor, Looney discloses a media organizer and entertainment center. Further, Looney discloses a favorite hits function that allows a user to identify individual titles from a plurality listed in a Music Play List with a colored flag, which reads on the claimed, "said user selectable parameter is in said third state if said entry corresponds to said plurality of songs and at least one, but not all, of said plurality of songs has been selected by the user," as disclosed at paragraph [0126] and exhibited in figure 23 with particular emphasis on items (798).

Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify the information sequence extraction and building apparatus e.g. for producing personalized music title sequences of Pachet to include a favorite hits function that allows a user to identify individual titles from a plurality listed in a Music Play List with a colored flag, as taught by Looney, for the purpose of visually

communicating to a user a difference in preference between songs in a selected playlist.

Regarding **claim 2**, the combination of Pachet and Looney discloses everything claimed as applied above (see claim 1). Further, Pachet discloses the system using a "User Profile" which is effectively a table containing a set of music titles the user either likes or dislikes, which reads on the claimed, “wherein each of said plurality of songs is represented in a preference table and includes a data setting indicating that either the song is liked or the song is disliked,” as disclosed at paragraph [0127].

Regarding **claim 3**, the combination of Pachet and Looney discloses everything claimed as applied above (see claim 2). Further, Pachet discloses the profile table may be thus updated continuously, typically starting from an empty state, and updated each time the user clicks on user-input (56) to indicate his or her taste, which reads on the claimed, "further comprising the step of updating the preference table each time the user indicates whether one of said plurality of songs is liked or disliked," as disclosed in paragraph [0128].

Regarding **claim 8**, Pachet discloses an information sequence extraction and building apparatus e.g. for producing personalized music title sequences. Further, Pachet discloses a personalized music sequence player (34), which reads on the claimed, “a digital audio player,” as disclosed at paragraph [0080] and exhibited in figure 5; the apparatus comprising:

storage unit (32), which reads on the claimed, "a storage device," as disclosed at paragraph [0085] and exhibited in figure 5;

an input device (42) through which a user can express personal choices in response to prompts appearing on video display unit (40), which reads on the claimed, "a user input device for allowing a user to select a playlist for display; a display device;" as disclosed at paragraph [0087] and exhibited in figure 5; and,

system control unit (36), based on a microprocessor, which controls the overall operation of the personal sequence apparatus (34), and further which centralizes the operation of the storage device, user input device, and the display device, which reads on the claimed, "a controller coupled to the mass storage device, the user input device, and the display device," as disclosed at paragraphs [0083]-[0087].

Further, the examiner maintains that the remaining limitations of the claim (i.e., everything from "the controller being operative to…" forward) are the corresponding apparatus to the method of claim 1, and therefore are rejected in view of the explanation set forth in claim 1 above.

Regarding **claim 9**, the combination of Pachet and Looney discloses everything claimed as applied above (see claim 8). Further, the examiner maintains that the claim is the corresponding apparatus to the method of claim 2, and therefore the limitations of the claim are rejected in view of the explanation set forth in claim 2 above.

Regarding **claim 10**, the combination of Pachet and Looney discloses everything claimed as applied above (see claim 9). Further, the examiner maintains that the claim is the corresponding apparatus to the method of claim 3, and therefore the limitations of the claim are rejected in view of the explanation set forth in claim 3 above.

Claims 4 and 11 are rejected under 35 U.S.C. 103(a) as being unpatentable over Pachet, in view of Looney, further in view of Nakane et al (US Patent 5,086,345), hereinafter referred to as Nakane.

Regarding **claim 4**, the combination of Pachet and Looney discloses everything claimed as applied above (see claim 3). However, the combination fails to disclose further comprising the step of storing the updated preference table in a storage device of the digital audio player during a shutdown operation of the digital audio player. The examiner maintains it was well known in the art to include the missing limitations, as taught by Nakane.

In a similar field of endeavor, Nakane discloses a method of operation in a still video camera system for transferring track information from a playback device to the still video camera. Nakane further discloses when the power is turned off, the data of the track information table thus updated is transferred to the system controller such that the table of the controller is updated, which reads on the claimed, " urther comprising the step of storing the updated preference table in a storage device of the digital audio player during a shutdown operation of the digital audio player," as disclosed at column 13, lines 41-45.

Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify the combination to include the data of the track information table thus updated is transferred to the system controller such that the table of the controller is updated, as taught by Nakane, for the purpose of preventing

accidental erasure of user-specified data by saving it to the memory during a shutdown operation.

Regarding **claim 11**, the combination of Pachet and Looney discloses everything claimed as applied above (see claim 10). Further, the examiner maintains that the claim is the corresponding apparatus to the method of claim 4, and therefore the limitations of the claim are rejected in view of the explanation set forth in claim 4 above.

Claims 5-6 and 12-13 are rejected under 35 U.S.C. 103(a) as being unpatentable over Pachet, in view of Looney, further in view of Conrad et al (US PgPub 2006/0212442), hereinafter referred to as Conrad.

Regarding **claim 5**, the combination of Pachet and Looney discloses everything claimed as applied above (see claim 1). However, the combination fails to disclose wherein if said one or more entries correspond to said plurality of songs, said one or more entries correspond to an artist. The examiner maintains that it was well known to include the missing limitations, as taught by Conrad.

In a similar field of endeavor, Conrad discloses methods of presenting and providing content to a user. Further, Conrad discloses playlist panel (304) visually representing to the user a playlist of songs, each song comprising a graphic element containing artist text as well as corresponding content art which may comprise, for example, a picture of an album cover, which reads on the claimed, “wherein if said one or more entries correspond to said plurality of songs, said one or more entries correspond to an artist,” as disclosed at column [0046] and exhibited in figure 3d.

Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify the combination of Pachet and Looney to include discloses playlist panel (304) visually representing to the user a playlist of songs, each song comprising a graphic element containing artist text as well as corresponding content art which may comprise, for example, a picture of an album cover, as taught by Conrad, for the purpose of conveying additional information regarding a chosen song to a user.

Regarding **claim 6**, the combination of Pachet and Looney discloses everything claimed as applied above (see claim 1). Further, the limitations of the claim are rejected in view of the explanation set forth in claim 5 above.

Regarding **claim 12,** the combination of Pachet and Looney discloses everything claimed as applied above (see claim 8). Further, the examiner maintains that the claim is the corresponding apparatus to the method of claim 5, and therefore the limitations of the claim are rejected in view of the explanation set forth in claim 4 above.

Regarding **claim 13**, the combination of Pachet and Looney discloses everything claimed as applied above (see claim 8). Further, the examiner maintains that the claim is the corresponding apparatus to the method of claim 6, and therefore the limitations of the claim are rejected in view of the explanation set forth in claim 4 above.

Claims 7 and 14 are rejected under 35 U.S.C. 103(a) as being unpatentable over Pachet, in view of Looney, further in view of Hartley (US PgPub 2002/0103796), hereinafter referred to as Hartley.

Regarding **claim 7**, the combination of Pachet and Looney discloses everything claimed as applied above (see claim 1). However, the combination fails to disclose further comprising the step of generating a playlist sequence using parameter data indicating whether one of said plurality of songs is liked or disliked, in response to user selection of a shuffle playmode. The examiner maintains that it was well known in the art to include the missing limitations, as taught by Hartley.

In a similar field of endeavor, Hartley discloses a method for parametrically sorting music files. Hartley further discloses providing a mixing factor by performing a calculation based upon a user-selected parameter and a random number (generated by a random number generator), performing this calculation for each file, which then sorts the files according to the sorting criteria, resulting in a playlist of files, and then the player performing a shuffle on only those files having a value for a particular user-defined parameter, which reads on the claimed, “further comprising the step of generating a playlist sequence using parameter data indicating whether one of said plurality of songs is liked or disliked, in response to user selection of a shuffle playmode," as disclosed in paragraphs [0023], and [0030]-[0031].

Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify the combination to include providing a mixing factor by performing a calculation based upon a user-selected parameter and a random number (generated by a random number generator), performing this calculation for each file, which then sorts the files according to the sorting criteria, resulting in a playlist of files, and then the player performing a shuffle on only those files having a value for a

particular user-defined parameter, as taught by Hartley, for the purpose of allowing the user to eliminate from the shuffle mode certain files not meeting set criteria.

Regarding **claim 14**, the combination of Pachet and Looney discloses everything claimed as applied above (see claim 8). Further, the examiner maintains that the claim is the corresponding apparatus to the method of claim 7, and therefore the limitations of the claim are rejected in view of the explanation set forth in claim 7 above.

Conclusion

Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to MARC DAZENSKI whose telephone number is (571)270-5577. The examiner can normally be reached on M-F, 9am-5pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Marsha Banks-Harold can be reached on (571)272-7905. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see http://pair-direct.uspto.gov. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Marsha D. Banks-Harold/
Supervisory Patent Examiner, Art Unit 2621

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